

REMARKS

The Office Action mailed January 05, 2007 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1, 2, 4, 5 and 8-18 are now pending in this application. Claims 1, 4, 5, 8-11 and 13-18 stand rejected. Claims 2 and 12 stand objected to.

Applicant wishes to thank the Examiner for the courtesies extended during the telephone interview conducted with Applicant and Applicant's representatives Eric T. Krischke and Robert B. Reeser III on April 04, 2007. During the interview, Applicant's representatives and the Examiner discussed differences between the cited prior art references, particularly U.S. Patent No. 5,312,247 to Sachdeva et al., and the present invention. The foregoing amendments to independent Claims 1 and 17 resulted from the discussion.

The rejection of Claims 1, 4, 5, 8-11 and 13-18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,312,247 to Sachdeva et al. (hereinafter referred to as "Sachdeva") is respectfully traversed.

Sachdeva describes a transpalatal orthodontic appliance for manipulation of the maxillary or mandibular arch in a patient. The appliance applies corrective forces to several teeth on opposite sides of the dental arch to expand the palate by moving the teeth outwardly with respect to a palate midline and expanding the arch.

Claim 1 recites an apparatus for facilitating treatment of a tooth that is at least partially impacted, the apparatus comprising "a wire fabricated at least partially from a superelastic material, said wire comprising a first end, a second end, and a substantially planar body extending therebetween, said body having a substantially uniform thickness and movable between a static position and an activated position, wherein said body is stretched between said first end and said second end, said first end comprising a first fastener configured to couple to an orthodontic fixture coupled to an outer surface of a tooth that is at least partially impacted, with said body stretched to the activated position said second end comprising a second fastener configured to couple to an anchoring device and secure said apparatus relative to the tooth, such that said wire applies a substantially constant force to the tooth as said body moves from the activated position to the static position to urge said first end toward said second end to erupt the at least partially impacted tooth."

Sachdeva does not describe or suggest an apparatus for facilitating treatment of a tooth that is at least partially impacted, as recited in Claim 1. More specifically, Sachdeva does not describe or suggest: (1) a first end comprising a first fastener configured to couple to an orthodontic fixture coupled to an outer surface of a tooth that is at least partially impacted; (2) a second end comprising a second fastener configured to couple to an anchoring device and secure the apparatus relative to the tooth with the body stretched to the activated position; and/or (3) a wire that applies a substantially constant force to the tooth as the body moves from the activated position to the static position to urge the first end toward the second end to erupt the at least partially impacted tooth. Rather, in contrast to the present invention, Sachdeva describes a transpalatal orthodontic appliance that applies corrective forces to several teeth on opposite sides of the dental arch to expand the palate by moving the teeth outwardly with respect to a palate midline and expanding the arch.

Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Sachdeva.

Claims 4, 5 and 8-10 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 4, 5 and 8-10 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 4, 5 and 8-10 likewise are patentable over Sachdeva.

Claim 11 recites a method for treating a tooth that is at least partially impacted, said method comprising “coupling a first end of a wire comprising a first fastener to an orthodontic fixture coupled to an outer surface of an at least partially impacted tooth, the wire fabricated at least partially from a superelastic material and having a substantially planar body extending between the first end and a second end, wherein the body has a substantially uniform thickness and is movable between a static position and an activated position, wherein the body is stretched between the first end and the second end; stretching the body from the static position to the activated position; and coupling the wire second end comprising a second fastener to an anchoring device with the body stretched to the activated position such that the wire applies a substantially constant force to the at least partially impacted tooth as the body moves from the activated position to the static position to urge the first end toward the second end to erupt the at least partially impacted tooth.”

Sachdeva does not describe or suggest a method for treating a tooth that is at least partially impacted, as recited in Claim 11. More specifically, Sachdeva does not describe or suggest: (1) coupling a first end of a wire comprising a first fastener to an orthodontic fixture coupled to an outer surface of an at least partially impacted tooth, the wire fabricated at least partially from a superelastic material and having a substantially planar body extending between the first end and a second end, wherein the body has a substantially uniform thickness and is movable between a static position and an activated position, wherein the body is stretched between the first end and the second end; and/or (2) coupling the wire second end comprising a second fastener to an anchoring device with the body stretched to the activated position such that the wire applies a substantially constant force to the at least partially impacted tooth as the body moves from the activated position to the static position to urge the first end toward the second end to erupt the at least partially impacted tooth. Rather, in contrast to the present invention, Sachdeva describes a transpalatal orthodontic appliance that applies corrective forces to several teeth on opposite sides of the dental arch to expand the palate by moving the teeth outwardly with respect to a palate midline and expanding the arch.

Accordingly, for at least the reasons set forth above, Claim 11 is submitted to be patentable over Sachdeva.

Claims 13-18 depend, directly or indirectly, from independent Claim 11. When the recitations of Claims 13-18 are considered in combination with the recitations of Claim 11, Applicant submits that dependent Claims 13-18 likewise are patentable over Sachdeva.

For at least the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1, 4, 5, 8-11 and 13-18 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



Eric T. Krischke
Registration No. 42,769
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070